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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**
11

12 ELIZABETH FLACK, an individual;

13 Plaintiff,

14 vs.
15

16 NUTRIBULLET, L.L.C., a California
17 Limited Liability Company, CAPITAL
18 BRANDS, L.L.C., a California Limited
19 Liability Company, HOMELAND
20 HOUSEWARES, L.L.C., a California
21 Limited Liability Company, CALL TO
22 ACTION, L.L.C., a California Limited
23 Liability Company, NUTRILIVING,
24 L.L.C., a California Limited Liability
25 Company, and DOES 1 through 10,
26 inclusive,

27 Defendants
28

Case No.: 2:18-cv-05829-DDP (SSx)
and related cases

**AMENDED JOINT CASE
MANAGEMENT ORDER**

TO THE HONORABLE COURT:

1 Plaintiffs, through their counsel, Abir Cohen Treyzon Salo, LLP, and
 2 Defendants NutriBullet, LLC, Capital Brands, LLC, Homeland Housewares, LLC,
 3 Nutriliving, LLC, and Call to Action, LLC (collectively “Defendants”), through their
 4 counsel, Yoka & Smith, LLP and Lewis Brisbois, LLP, submit the following Joint
 5 Case Management Order (“CMO”):

6 **1. SCOPE OF CMO**

7 This CMO covers all related cases to the instant matter (i.e. *Beebe v.*
 8 *NutriBullet, et al.*, Case No.: 2:17-cv-00828 DDP (SSx).

9 **2. DISCOVERY**

10 **a) Fact Discovery.** Fact discovery shall proceed pursuant to the
 11 provisions of the Federal Code of Civil Procedure unless otherwise specifically
 12 provided herein or in subsequent pretrial case management orders.

13 i) Each Plaintiff will prepare and verify under penalty of perjury answers to
 14 the attached Fact Sheet (attached to this Order as **Exhibit 1**), and produce the
 15 documents requested therein within 30 days of service of the Answer. **Exhibit 1** is
 16 not intended to preclude Defendants from serving any additional discovery they
 17 deem necessary, which is not duplicative of the information provided by each
 18 Plaintiff in Exhibit 1.

19 In an effort to avoid duplication, Plaintiff Fact Sheets shall be in lieu of
 20 Plaintiff separately serving Initial Disclosures pursuant to Rule 26(a)(1).
 21 Notwithstanding the foregoing, Plaintiff’s obligations under Rule 26(a)(1)(A)(i), (ii)
 22 and (iii) shall apply with the same force and effect to the Plaintiff’s Fact Sheets. The
 23 parties agree that all rules applying to Initial Disclosures, shall apply with the same
 24 force and effect to the Plaintiff’s Fact Sheets, unless expressly modified herein. (See
 25 section XII, below).

26 Each Plaintiff will update and supplement their Fact Sheets, and documents
 27 accompanying the Fact Sheets, as new information and or documents becomes
 28 known to them. Plaintiff’s ongoing obligations to supplement his/her Initial

1 Disclosures under Rule 26(e) *et seq.* remains in full force and effect.

2 ii) Each Plaintiff will execute a written Authorization (attached to this Order
3 as **Exhibit 2**) for every healthcare provider he/she has seen in connection with
4 his/her care and treatment for injuries and damages sought through the Complaints.
5 These Authorizations will be limited in scope to body parts and injuries placed at
6 issue in the litigation, and limited in time to five years before the date of the subject
7 incident to the present day. If Defendants believe that relevant medical information
8 may exist for body parts and injuries placed at issue in the litigation more than five
9 years before the subject incident, the Court will consider Defendants' request for
10 such information beyond the five-year time period.

11 To the extent that any of Plaintiff's healthcare providers are located more than
12 100 miles from the Court or are out of the country, and they refuse to voluntarily
13 provide copies of the requested records to Defendants based only on the
14 Authorization signed by Plaintiff, this Court will issue all necessary Commissions
15 or Orders, without a formal motion, to allow Defendants to compel the production
16 of such requested documents in the appropriate jurisdictions. Nothing herein shall
17 preclude Defendants from obtaining records from healthcare providers not identified
18 in response to Plaintiffs' Fact Sheet or through written discovery. Subject to the
19 limitations placed on time, injuries, and body parts placed at issue in litigation,
20 within ten (10) days of a written request by Defendants, each Plaintiff will sign all
21 Authorizations for subsequently identified or disclosed healthcare providers and will
22 provide such signed Authorizations to counsel for Defendants within that ten (10)
23 day period. Plaintiffs' counsel will be provided with a copy of all records obtained
24 by Defendants through these Authorizations.

25 The above referenced Authorization (Exhibit 2), shall be produced within 30
26 days of service of the Answer, or from the date of the signing of this Order,
27 whichever is later.

28 iii) To the extent any Plaintiff is making a claim for loss of earnings or loss

1 of earning capacity, each such Plaintiff will execute a written Authorization
 2 (attached to this Order as **Exhibit 3**) for each and every employer he/she has had for
 3 a period of 10 years before the subject incident to the present. If any health
 4 information regarding body parts, medical conditions, or injuries not placed at issue
 5 by the Plaintiff's litigation is included in Plaintiff's employment records then such
 6 records shall be excluded from the Authorization. If, however, a Plaintiff's
 7 employment records contain information that the Plaintiff was unable to work for
 8 any period of time due to a physical or medical condition or injury and/or that
 9 Plaintiff was on disability during the seven years prior to the subject incident,
 10 Defendants shall be entitled to such information and the cause of Plaintiff's inability
 11 to work during that time. To the extent Plaintiffs' employers are located more than
 12 100 miles from the Court or are out of the country and refuse to voluntarily provide
 13 copies of the requested records to Defendants based only on the Authorization signed
 14 by Plaintiff, this Court will issue all necessary Commissions or Orders, without a
 15 formal motion, to allow Defendants to compel the production of such requested
 16 documents in the appropriate jurisdictions. Nothing herein shall preclude
 17 Defendants from obtaining records from employers not identified in response to any
 18 Plaintiff's Fact Sheet or through written discovery. Each Plaintiff will sign
 19 Authorizations for subsequently disclosed or discovered persons or entities for
 20 which any plaintiff claims a loss of earnings and will provide such signed
 21 authorizations to counsel for Defendants. Plaintiff shall sign the Authorizations for
 22 subsequently disclosed or discovered persons or entities no later than twenty (20)
 23 days of discovering these persons. Plaintiffs' counsel will be provided with a copy
 24 of all records obtained by Defendants through these Authorizations.

25 The above-referenced executed written Authorizations (Exhibit 3) are due
 26 within 30 days of service of the Answer, or from the date of the signing of this Order,
 27 whichever is later.

28 iv) Simultaneous with Defendants' fact discovery, Plaintiffs may serve their

1 written discovery upon Defendants. Each Defendant will respond to the discovery
2 requests and produce documents within 30 days.

3 **b) Defendants' Initial Disclosures.** Defendants' Initial Disclosures shall be
4 due 30 days from the date their Answer is filed, or from the date of the signing of
5 this Order, whichever is later.

6 **c) Protective Order.** At such time as the Parties agree on, or the Court orders
7 the use of, a particular Protective Order, each Plaintiff shall execute and serve the
8 Protective Order upon Defendants' counsel along with the initial discovery
9 propounded by Plaintiff. Upon receipt of the executed Protective Order Defendants
10 shall file a fully executed copy with the Court within five (5) court days in each case.
11 Defendants shall not be obligated to respond to any portion of Plaintiff's discovery
12 which calls for information protected as "Confidential" or "Attorneys' Eyes Only"
13 until and unless Plaintiff has provided the executed Protective Order to Defendants
14 and the Court has signed and entered the Protective Order in the case in which the
15 documents or information is to be produced.

16 **d) Production of Subject Product.**

17 Plaintiff shall produce high-resolution photographs of the subject product,
18 including the serial number within 30 days of service of the Answer, or from the
19 date of the signing of this Order, whichever is later. This shall not apply to subject
20 products that the Defendants have already photographed.

21 Additionally, all subject products not already visually inspected by
22 Defendants shall be made available for visual, non-destructive inspection at the
23 offices of Plaintiffs' counsel on a mutually agreeable date on or before the thirtieth
24 day after this Order is signed. Experts or consultants shall be permitted to attend
25 this visual inspection at the election of the parties. In the event counsel for
26 Defendants asserts any subject product is not an authentic product, Defendants'
27 counsel will notify Plaintiffs' counsel in writing the reasons that Defendants claim
28 the product is not authentic with sufficient specificity for Plaintiffs to independently

1 verify the product's authenticity.

2 With regard to all cases filed subsequent to the signing of this Order, Plaintiff
3 shall make the subject product available for visual non-destructive inspection as
4 described above within 45 days of a Defendant's appearance in the case, or 30 days
5 from the date of the signing of this Order, whichever is later.

6 Any proposed custodial or destructive testing of a subject product shall be
7 permitted only with leave of Court or by stipulation of the Parties.

8 **Preservation of Evidence.** While the products are still in the possession
9 of the respective Plaintiff, the following Order regarding Preservation of Evidence
10 shall apply: Plaintiffs' counsel shall advise each Plaintiff that they shall maintain
11 and preserve unchanged all physical evidence, including the subject NutriBullet
12 product at issue, including all component parts, for inspection, photographing,
13 testing and use, if necessary, at trial. This duty to preserve evidence includes the
14 duty not to destroy, discard, alter or modify in any manner any evidence related to
15 the incident that is the subject of Plaintiff's lawsuit, and to maintain the evidence in
16 the same manner and condition as it existed during and immediately following the
17 subject incident, including but not limited to (1) the particular NutriBullet product
18 referenced in each Plaintiff's complaint, including all component parts. Plaintiffs'
19 counsel shall advise each Plaintiff that, if Plaintiffs have not already done so,
20 Plaintiffs shall not clean, wash or in any way remove any ingredients, residue or
21 other matter from the product or any of its component parts, such that the post-
22 incident condition of the product and all component parts shall be fully and
23 completely preserved; (2) all packaging for the subject product(s); (3) all printed
24 materials that accompanied the subject product(s), including all User Guides, Recipe
25 Books, NutriBullet Life Changing Recipes, Pocket Nutritionist materials, Quick-
26 Start Guide, and warranty registration cards; and (4) receipts of any kind related to
27 the subject product(s), including the purchase of the subject products. Defendants
28 shall abide by the above conditions during the course of any custodial possession.

1 e) **Expert Discovery.** Unless otherwise ordered by the Court, the expert
 2 discovery cut off, designations, rebuttal designations shall follow the schedule
 3 attached as (**Exhibit 4**). Expert reports shall be mutually exchanged at the time of
 4 initial expert designation.

5 Defendants shall have priority in the taking of expert depositions. The
 6 deposition of each expert designated by Plaintiff on a particular issue shall take place
 7 before the deposition of the corresponding expert on the same issue designated by
 8 Defendants.

9 **3. DEPOSITIONS AND FURTHER WRITTEN DISCOVERY**

10 Depositions and further written discovery shall be conducted following the
 11 schedule attached as Exhibit 4.

12 **4. MEDICAL EXAMINATIONS**

13 In cases where a Plaintiff has alleged multiple separate and distinct injuries
 14 and/or medical conditions resulting from the subject incident, Defendants shall be
 15 entitled to one medical examination for each such distinct injury and/or medical
 16 condition put at issue.

17 Plaintiffs are entitled to contest multiple examinations by motion as necessary.

18 **5. MODIFICATION OF CASE MANAGEMENT ORDER**

19 All dates set forth in this Case Management Order may be extended for good
 20 cause shown, upon stipulation of the Parties, or by Order of the Court. Good cause
 21 shall include, but not be limited to, delay in scheduling depositions, continuation of
 22 noticed depositions, delay in receipt of records, and resolution of good faith
 23 discovery disputes.

24 **6. TRIALS**

25 Trials shall be conducted according to the schedule attached as Exhibit 4.

26
 27 Date: December 27, 2019



28
 Dean D. Pregerson
 United States District Court Judge

EXHIBIT 1**PLAINTIFF FACT SHEET****PRODUCT IDENTIFICATION AND EXPOSURE FACT SHEET**

Each Plaintiff shall complete this Fact Sheet, including all of the questions asked, and produce all of the documents requested. Plaintiff's response to this Fact Sheet must be verified under penalty of perjury in accordance with California law.

INSTRUCTIONS

In completing this Fact Sheet, it is expected that Plaintiff(s) will fully and completely respond to each question and will provide all of the information available to him/her and his/her counsel that is sought by each question. The questions should be read broadly. If Plaintiff(s) does not know the answer to any question, he/she must state that he/she does not know the answer. To the extent Plaintiff(s) cannot completely answer any question, he/she must provide whatever information is available to him/her and his/her counsel. As to any information sought by the question which Plaintiff(s) and his/her counsel do not know, they must identify what part of the question he/she and his/her counsel cannot answer. This Fact Sheet does not seek (1) the identity of any consulting experts or (2) the opinions and conclusions of any consulting experts. Plaintiff(s) is not required to identify any consulting experts or disclose any opinions of consulting experts in response to this Fact Sheet; however, Plaintiff(s) must disclose all facts responsive to this Fact Sheet. If Plaintiff(s) is withholding information in response to any question based on a claim of privilege, or work product protection, he/she must indicate the privilege or protection claim in response to the question.

DEFINITIONS

"INCIDENT" includes the circumstances and events surrounding the alleged accident, injury, or other occurrence giving rise to this action, as alleged in Plaintiff's complaint.

"SUBJECT PRODUCT" refers to the specific NutriBullet product identified in

1 Plaintiff's complaint which Plaintiff claims caused his/her injuries, including all of
2 its component parts.

3 "PERSON" includes a natural person, firm, association, organization, partnership,
4 business, trust, limited liability company, corporation, or public entity.

5 "DOCUMENT" means a writing, as defined in Evidence Code section 250, and
6 includes the original or a copy of handwriting, typewriting, printing, Photostats,
7 photographs, electronically stored information, and every other means of recording
8 upon any tangible thing and form of communication or representation, including
9 letters, words, pictures, sounds, or symbols, or combinations of them.

10 "ADDRESS" means the street address, including the city, state, and zip code.

11 "HEALTH CARE PROVIDER" includes any PERSON referred to in Code of Civil
12 Procedure section 667.7(e)(3).

13 **Please attach as many sheets of paper as necessary to fully and completely**
14 **answer these questions.**

15 **I. BACKGROUND INFORMATION**

16 1. Name:

17 a. Maiden or other names used or by which you have been known
18 and dates:

19 2. Present street address:

20 a. Residence addresses for the previous 10 years, if different from
21 current address.

22 3. Social Security Number:

23 4. Date of Birth:

24 5. Have you ever served in any branch of the U.S. Military?

25 Yes _____ No _____

26 If yes, please state:

27 a. Branch and dates of service:
28

1 b. Were you discharged for any reason relating to your health or
2 physical condition?

3 Yes_____ No_____

4
5 6. Have you ever been rejected from military service for any reason
6 relating to your health or physical condition?

7 Yes_____ No_____

8 If yes, state the condition:

9 7. Have you filed a worker's compensation claim within the last 10
10 years?

11
12 Yes_____ No_____

13 If yes, please state:

14 a. Year claim was filed:

15
16 b. Where claim was filed:

17
18 c. Claim/docket number, if applicable:

19
20 d. Nature of disability:

21
22 e. Period of disability:

23
24
25 (Attach additional sheets if necessary to describe more than one claim)

26
27 8. Have you filed a Social Security disability claim within the last 10 years?

Yes _____ No _____

If yes, please state:

a. Year the claim was filed:

b. Where claim was filed:

c. Claim / Docket number, if applicable:

(Attach additional sheets if necessary to describe more than one claim)

9. Have you filed a lawsuit or made a claim, other than in the present suit,
relating to any bodily injury within the last 10 years?

Yes _____ No _____

If yes, please state:

a. Year the claim or action was filed:

b. The court in which the claim or action was filed:

c. Case /Docket number:

(Attach additional sheets if necessary to describe more than one action)

10. Have you ever been convicted of a felony?

Yes _____ No _____

If yes, please state:

a. Year of conviction:

b. The court in which the conviction occurred:

c. The Penal Code sections of which you were convicted:

II. FAMILY INFORMATION

A. Are you currently married?

Yes _____ No _____

2. Has your spouse filed a loss of consortium claim?

Yes _____ No _____

3. Spouse's name:

4. Spouse's date of birth:

5. Spouse's occupation:

6. Do you have children?

Yes _____ No _____

If yes, state the name and date of birth of each child:

1. Name:

Date of birth:

H. Name:

Date of birth:

I. Name:

1 Date of birth:

2 J. Name:

3 Date of birth:

4 Provide the same information for any additional children.

5 **III. PRODUCT IDENTIFICATION AND INCIDENT**

6 1. Date of Incident:

7 2. SUBJECT PRODUCT Name:

8 3. SUBJECT PRODUCT Model Number:

9 4. Serial number for the SUBJECT PRODUCT:

10 a. Please produce a high-resolution photograph of the serial number
11 on the bottom underside of the motor base of the SUBJECT
12 PRODUCT.

13 5. SUBJECT PRODUCT supplier (i.e., vendor which sold the SUBJECT
14 PRODUCT to Plaintiff(s) or owner of the SUBJECT PRODUCT
15 Plaintiff(s) was using at the time of the INCIDENT):

16 6. Describe the SUBJECT PRODUCT and its packaging (including type
17 and size of packaging, and other identifying characteristics such as any
18 names, words, numbers or pictorials, i.e., number and letter
19 combinations):

20 7. Name/address of each location where Plaintiff(s) used the SUBJECT
21 PRODUCT prior to the INCIDENT:

22 a. Address:

23 b. Dates:

24 8. Identify each person who witnessed or who has knowledge about each
25 time Plaintiff(s) used the SUBJECT PRODUCT:

26 a. Date(s) Plaintiff(s) used SUBJECT PRODUCT:

27 b. Location(s) Plaintiff(s) used SUBJECT PRODUCT:

1 c. Name of Witness:

2 d. Last Known Address:

3 e. Last Known Telephone No:

4 f. Summary of what each such third-party witness will testify to.

5 9. Describe the frequency and duration of each occasion Plaintiff(s) used
6 the SUBJECT PRODUCT:

7 a. Date(s):

8 b. Frequency (per day and days per week or month):

9 c. Duration (hours per day):

10 10. Describe in detail the manner/method in which Plaintiff(s) allegedly used
11 the SUBJECT PRODUCT at each location:

12 11. Describe in detail what the SUBJECT PRODUCT was used for:

13 12. Identify the location (i.e., department/jobsite) where the SUBJECT
14 PRODUCT was used:

15 13. Identify all documents relating to the SUBJECT PRODUCT:

16 14. Specify the particular manner in which you contend the SUBJECT
17 PRODUCT caused Plaintiff's injury:

18 15. Please state in detail the sequence of events starting from your
19 preparation of each individual ingredient used in the recipe referenced in
20 your complaint to the time of the INCIDENT.

21 16. State the temperature of each individual ingredient used in the recipe
22 identified in your complaint immediately before it was placed into the
23 SUBJECT PRODUCT.

24 17. State how much time each individual ingredient used in the recipe
25 identified in your complaint had to cool before it reached the temperature
26 identified in your response to 15.

27 18. State how you measured the quantity of each individual ingredient used
28

1 in the recipe identified in your complaint at the time of the INCIDENT.

2 19. Please state the quantity of each individual ingredient used in the recipe
3 identified in your complaint at the time of the INCIDENT.

4 20. What size cup from the SUBJECT PRODUCT did you use in
5 preparation of the recipe identified in your complaint at the time of the
6 INCIDENT?

7 21. What blade holder from the SUBJECT PRODUCT did you use in
8 preparation of the recipe identified in your complaint at the time of the
9 INCIDENT?

10 22. At the time of the INCIDENT, how long was the SUBJECT PRODUCT
11 activated prior to the accident alleged in your complaint?
12

13 **IV. EMPLOYMENT**

14 Identify each of Plaintiff's employers for the past 10 years and provide the
15 requested information for each employer.
16

17 1. Employer Name:

18 2. Date(s) of employment:

19 3. Address/Telephone number. of employer:

20 4. Address of jobsite(s):

21 5. Date(s) at each jobsite:

22 6. Job title(s):

23 7. Job duties and responsibilities:

24 8. Date(s) of job title(s):

25 9. Location within facility where worked:

26 10. Products used in job responsibilities:

27 11. Supervisor(s):

28 12. Your starting wage/salary and final wage/salary at each Employer identified

1 in Question 1.

2
3 **V. LOST EARNINGS**

4 A. Do you attribute any loss of income or earning capacity to the accident?

5
6 Yes_____ No_____

7
8 If yes, please state:

9
10 a. The last date before the accident that you worked:

11
12 b. Your gross monthly income at the time of the accident:

13
14 c. The date you returned to work after the accident, if applicable:

15
16 d. The dates you did not work and for which you lost income:

17
18 e. The total income you have lost to date as a result of the accident:

19
20 f. If you believe you will lose income in the future as a result of the
21 accident, state

22
23 how long you will be unable to work and the basis for such time period.

24
25 **VI. INJURIES**

26 1. Do you attribute any physical, mental, or emotional injury to the accident?

27 Yes_____ No_____

28 If yes, state the following:

1 a. Identify each injury you attribute to the accident and the area of your body
2 affected:

3 2. Do you claim that you have suffered a mental or emotional injury over and
4 above that is usually associated with the physical injuries claimed as a result
5 of the accident?

6 Yes_____ No_____

7 3. For each HEALTH CARE PROVIDER who has provided any medical
8 attention for any injury you claim you sustained as a result of the INCIDENT,
9 please state:

10 a. The name and ADDRESS of the PERSON who treated you:

11 b. The dates the treatments occurred:

12
13 **VII. CURRENT MEDICAL CONDITION**

14 1. Do you currently suffer from any physical injuries, illnesses, or disabilities
15 (other than those you claim were caused by the INCIDENT that is the subject of
16 your lawsuit)?

17 Yes_____ No_____

18 If yes, please state the following:

19
20 a. Identify the injury, illness, or disability and date of onset:

21 b. By whom first diagnosed:

22 2. At any time before the INCIDENT did you have complaints or injuries that
23 involved the same part of your body claimed to have been injured in the
24 INCIDENT? If so, for each state:

25 a. a description of the complaint or injury:

26 b. the dates it began and ended; and

27 c. the name, ADDRESS, and telephone number of each HEALTH CARE
28

1 PROVIDER whom you consulted or who examined or treated you.

2 3. List all physical, mental, and emotional disabilities you had immediately
3 before the INCIDENT. (You may omit mental or emotional disabilities unless
4 you attribute any mental or emotional injury to the INCIDENT.)

5 4. At any time after the INCIDENT, did you sustain injuries of the kind for
6 which you are now claiming damages? If so, for each incident giving rise to an
7 injury state:

8 a. the date and the place it occurred;

9 b. the name, ADDRESS, and telephone number of any other PERSON
10 involved;

11 c. the nature of any injuries you sustained;

12 d. the name, ADDRESS, and telephone number of each HEALTH CARE
13 PROVIDER who you consulted or who examined or treated you; and

14 e. the nature of the treatment and its duration.
15

16 **VIII. PROPERTY DAMAGE**

17 1. Do you attribute any loss of or damage to any property to the INCIDENT?
18 If so, for each item of property:

19 a. describe the property;

20 b. describe the nature and location of the damage to the property;

21 c. state the amount of damage you are claiming for each item of property and
22 how the amount was calculated; and

23 d. if the property was sold, state the name, ADDRESS, and telephone number
24 of the seller, the date of sale, and the sale price.

25 2. Has a written estimate or evaluation been made for any item of property
26 referred to in your answer to the preceding interrogatory? If so, for each estimate
27 or evaluation state:
28

- a. the name, ADDRESS, and telephone number of the PERSON who prepared it and the date prepared;
 - b. the name, ADDRESS, and telephone number of each PERSON who has a copy of it; and,
 - c. the amount of damage stated.
3. Has any item of property referred to in your answer to Question 2 been repaired? If so, for each item state:
- a. the date repaired;
 - b. a description of the repair;
 - c. the repair cost;
 - d. the name, ADDRESS, and phone number of the PERSON who repaired it;
 - e. the name, ADDRESS, and telephone number of the PERSON who paid for the repair.

IX. PRIOR CLAIMS

1. Except for this action, in the past 10 years have you filed an action or made a written claim or demand for compensation for your personal injuries? If so, for each action, claim, or demand state:
- a. the date, time, and place and location (closest street ADDRESS or intersection) of the INCIDENT giving rise to the action, claim, or demand;
 - b. the name, ADDRESS, and telephone number of each PERSON against whom the claim or demand was made or the action filed;
 - c. the court, names of the parties, and case number of any action filed;
 - d. the name, ADDRESS, and telephone number of any attorney representing you;
 - e. whether the claim or action has been resolved or is pending; and
 - f. a description of the injury.

2. In the past 10 years have you made a written claim or demand for workers' compensation benefits? If so, for each claim or demand state:
- the date, time, and place of the INCIDENT giving rise to the claim;
 - the name, ADDRESS, and telephone number of your employer at the time of the injury;
 - the name, ADDRESS, and telephone number of the workers' compensation insurer and the claim number;
 - the period of time during which you received workers' compensation benefits;
 - a description of the injury;
 - the name, ADDRESS, and telephone number of any HEALTH CARE PROVIDER who provided services; and
 - the case number at the Workers' Compensation Appeals Board.

X. CONTENTIONS

1. If you contend that Defendants are liable to Plaintiff on a theory of defective design of the SUBJECT PRODUCT, please state, with specificity, how and in what manner the design was defective.

2. If you contend that Defendants are liable to Plaintiff on a theory of defective design of the SUBJECT PRODUCT, please state, with specificity, the manner by which the alleged defect caused, in whole or in part, Plaintiff's alleged injuries.

3. Please identify all PERSONS (excluding consultants and experts retained by or on behalf of responding party) with knowledge of any facts that relate to your contention that Defendants are liable to plaintiff on a theory of defective design of the SUBJECT PRODUCT.

4. Please identify all DOCUMENTS (excluding materials prepared by

1 consultants and experts retained by or on behalf of responding party) which relate
2 to your contention that Defendants are liable to Plaintiff on a theory of defective
3 design of the SUBJECT PRODUCT.

4 5. Please identify all PERSONS (excluding consultants and experts retained
5 by or on behalf of responding party) with knowledge of any facts that relate to the
6 manner by which any alleged design defect caused, in whole or in part, Plaintiff's
7 alleged injuries.

8 6. Please identify all DOCUMENTS (excluding materials prepared by
9 consultants and experts retained by or on behalf of responding party) which relate
10 to the manner by which any alleged design defect caused, in whole or in part,
11 Plaintiff's alleged injuries.

12 7. If you contend that Defendants are liable to Plaintiff on a theory of
13 defective manufacture of the SUBJECT PRODUCT, please state, with specificity,
14 how and in what manner the SUBJECT PRODUCT was defectively
15 manufactured.

16 8. If you contend that Defendants are liable to Plaintiff on a theory of
17 defective manufacture of the SUBJECT PRODUCT, please state, with specificity,
18 the manner by which the alleged manufacturing defect caused, in whole or in part,
19 the alleged failure of the SUBJECT PRODUCT.

20 9. Please identify all PERSONS (excluding consultants and experts retained
21 by or on behalf of responding party) with knowledge of any facts that relate to
22 your contention that Defendants are liable to Plaintiff on a theory of defective
23 manufacture of the SUBJECT PRODUCT.

24 10. Please identify all DOCUMENTS (excluding materials prepared by
25 consultants and experts retained by or on behalf of responding party) which relate
26 to your contention that Defendants are liable to Plaintiff on a theory of defective
27 manufacture of the SUBJECT PRODUCT.
28

1 11. Please identify all PERSONS (excluding consultants and experts
2 retained by or on behalf of responding party) with knowledge of any facts that
3 relate to the manner by which any alleged manufacturing defect caused, in whole
4 or in part, Plaintiff's alleged injuries.

5 12. Please identify all DOCUMENTS (excluding materials prepared by
6 consultants and experts retained by or on behalf of responding party) which relate
7 to the manner by which any alleged manufacturing defect caused, in whole or in
8 part, Plaintiff's alleged injuries.

9 13. If you contend Defendants are liable to Plaintiff on a failure to warn
10 theory, please state, with specificity, the nature of each such failure to warn.

11 14. If you contend that Defendants are liable to Plaintiff on a failure to warn
12 theory, please identify with particularity, each alleged hazard of which Defendants
13 should have warned.

14 15. If you contend that Defendants are liable to Plaintiff on a failure to warn
15 theory, please identify with specificity the manner in which the alleged failure to
16 warn, in whole or in part, caused Plaintiff's damages.

17 16. If you contend that Defendants are liable to Plaintiff on a failure to warn
18 theory, describe specifically and in detail the warning that you claim should have
19 been provided to Plaintiff and the manner in which you claim the warning should
20 have been conveyed to Plaintiff

21 17. Please identify all PERSONS (excluding consultants and experts
22 retained by or on behalf of responding party) with knowledge of any facts that
23 relate to your contention that Defendants are liable to Plaintiff for alleged failure
24 to warn.

25 18. Please identify all DOCUMENTS (excluding materials prepared by
26 consultants and experts retained by or on behalf of responding party) which relate
27 to your contention that Defendants are liable to Plaintiff for alleged failure to
28

1 warn.

2 19. Please identify all DOCUMENTS (excluding materials prepared by
3 consultants and experts retained by or on behalf of responding party) which relate
4 to the alleged hazards of which you contend that Defendants failed to so warn.

5 20. Please identify all PERSONS (excluding consultants and experts
6 retained by or on behalf of responding party) with knowledge of any facts which
7 relate to the manner in which the alleged failure to warn, in whole or in part,
8 caused plaintiff's alleged injuries.

9 21. Please identify all DOCUMENTS (excluding materials prepared by
10 consultants and experts retained by or on behalf of responding party) which relate
11 to the manner in which the alleged failure to warn, in whole or in part, caused
12 plaintiff's alleged injuries.

13 22. Do you contend that the SUBJECT PRODUCT was in violation of any
14 public safety standard? If so, please:

15 a. State all facts upon which you base such contention;

16 b. Identify all PERSONS with knowledge of the facts which relate
17 to your contention that the SUBJECT PRODUCT was in violation of any
18 public safety standard; and

19 c. Identify all DOCUMENTS that relate to your contention that
20 the SUBJECT PRODUCT was in violation of any public safety standard.

21 23. Do you contend that Defendants breached any warranty to you?

22 24. If you contend that Defendants breached any warranty to you, please
23 state with particularity the type of warranty that you contend was breached.

24 25. If you contend that Defendants are liable to you for breach of any
25 warranty, please state all facts that you contend establish any breach of warranty.

26 26. Please identify all PERSONS (excluding consultants and experts
27 retained by or on behalf of responding party) with knowledge of any facts that
28

1 relate to your contention that Defendants are liable to you on a theory of breach of
2 warranty.

3 27. Please identify all DOCUMENTS (excluding materials prepared by
4 consultants and experts retained by or on behalf of responding party) which relate
5 to your contention that Defendants are liable to you on a theory of breach of
6 warranty.

7
8 **XI. DOCUMENTS**

9 Attach the following documents to this response; to the extent such documents are
10 currently in your possession or in the possession of your lawyers:

- 11 1. All videotapes and photographs of the scene of the INCIDENT.
- 12 2. All videotapes and photographs that depict all of the personal injuries you
13 claim to have sustained in the INCIDENT.
- 14 3. All videotapes and photographs that depict the current personal injuries you
15 claim to have sustained in the INCIDENT.
- 16 4. Copies of all DOCUMENTS relating to the acquisition, purchase and
17 ownership of the SUBJECT PRODUCT.
- 18 4. Copies of all written materials that accompanied the SUBJECT PRODUCT,
19 including all warnings, directions, instructions, User Guides, and recipe books.
- 20 5. Copies of all medical records from any HEALTH CARE PROVIDER who
21 treated you for any injury, condition, or symptom suffered as a result of the
22 INCIDENT.
- 23 6. To the extent you are claiming a mental or emotional injury over and above
24 that usually associated with the physical injuries claimed as a result of the accident,
25 a copy of all medical or other records from any HEALTH CARE PROVIDER who
26 treated you for any mental or emotional injury, condition, or symptom suffered as a
27 result of the INCIDENT.
- 28

1 7. If you claim any loss from medical expenses, copies of all bills from all of
2 your HEALTH CARE PROVIDERS.

3 8. If you claim you have suffered a loss of earnings or earning capacity, all
4 DOCUMENTS, excluding federal tax returns, which support such claim.

5
6 **XII. RULE 26 INITIAL DISCLOSURES**

7
8 **Persons:**

9 1. The name and, if known, the address and telephone number of each
10 individual likely to have discoverable information—along with the subjects of that
11 information—that the disclosing party may use to support its claims or defenses,
12 unless the use would be solely for impeachment;

13 **Documents:**

14 2. A copy—or a description by category and location—of all documents,
15 electronically stored information, and tangible things that the disclosing party has
16 in its possession, custody, or control and may use to support its claims or defenses,
17 unless the use would be solely for impeachment;

18 **Computation of Damages:**

19 3. A computation of each category of damages claimed by the disclosing
20 party—who must also make available for inspection and copying as under Rule 34
21 the documents or other evidentiary material, unless privileged or protected from
22 disclosure, on which each computation is based, including materials bearing on the
23 nature and extent of injuries suffered.

EXHIBIT 2

AUTHORIZATION FOR RELEASE OF MEDICAL RECORDS

PURSUANT TO 45 C.F.R. § 164.508 (HIPAA)

PATIENT NAME: _____

SOCIAL SECURITY NUMBER: _____

DATE OF BIRTH: _____

I hereby authorize _____, to release all existing medical records and information regarding the above-named person's medical care, treatment, physical condition(s) and/or medical expenses revealed by observation or treatment past, present and future; and to release all existing records and information regarding the above-named person's treatment, condition(s) and/or expenses revealed by observation or treatment past, present and future to the following law firms: Yoka & Smith, LLP, 445 South Figueroa Street 38th Floor, Los Angeles, CA 90071; Lewis Brisbois Bisgaard & Smith, 633 West 5th Street, Suite 4000, Los Angeles, CA 90071; and, any other law firm that are counsel of record for a defendant in the above-referenced lawsuit.

These records shall be used solely in connection with the currently pending litigation involving the person named above. This authorization shall be effective as of the date on which this litigation concludes.

The type or amount of specific information to be released, used and disclosed includes, but is not specifically limited to: any and all medical records (including all written and typewritten notes, face sheets, telephone messages, problem and medication lists, and laboratory results), reports, x-rays, CT scans, labor and delivery records, EKG and ECG reports and strips, MRIs, , discharge summaries, informed consent forms, notes, histories, diagnosis, function status, treatment plans, symptoms, prognosis, progress, therapy records, photographs, videotapes, myelograms, prescriptions, psychiatric treatment and counseling records, psychological treatment

1 and counsel records, narratives, bills, insurance records, claim forms, Medicare or
2 Medicaid records and other public assistance claim forms, applications, statements,
3 eligibility material, claims or claim disputes, resolution and payment, excerpts or
4 abstracts of any records or other information or documents in your custody or under
5 your control regarding the above-named patient, and all other medical records and
6 billing records the evidence services provided.

7 I understand that I have the right to revoke in writing my consent to this
8 authorization at any time, except to the extent that the above-named facility or
9 provider already has taken action in reliance upon this authorization, or if this
10 authorization was obtained as a condition(s) of obtaining insurance coverage. I
11 understand that if I choose to revoke this authorization, I must do so in writing and
12 present my written revocation to the health information management department for
13 the entity identified in paragraph one and/or my attorneys of record to be forward to
14 all counsel in this matter. I understand the revocation will not apply to information
15 that has already been released in response to this authorization.

16 I further understand that the above-named facility or provider cannot condition
17 the provision of treatment, payment, enrollment in a health plan or eligibility for
18 benefits on my provision of this authorization. I further understand that the
19 information disclosed pursuant to this authorization may be subject to re-disclosure
20 by the recipient to its clients, agents, employees, consultants, experts, the court, and
21 other deemed necessary by the recipient to assist in this litigation.

22 I further understand that a copy of any records obtained subject to the request
23 and/or authorization will be provided to Plaintiffs' counsel.

24 A photocopy of this authorization is to be considered as valid as the original and may
25 be submitted in its place.

26 Dated this ____ day of _____, 20____

27 Patient's Signature : _____ Print Name: _____
28

EXHIBIT 3

AUTHORIZATION FOR RELEASE OF EMPLOYMENT RECORDS

EMPLOYEE NAME: _____

SOCIAL SECURITY NUMBER: _____

DATE OF BIRTH: _____

I, _____, hereby authorize

_____ to release, disclose and produce my individually identifiable employment records/history as described below to YOKA & SMITH, LLP, LEWIS BRISBOIS BISGAARD & SMITH, or either's respective agent, _____, which may include information concerning my health history including communicable diseases such as Human Immunodeficiency Virus ("HIV") and Acquired Immune Deficiency Syndrome ("AIDS"), chemical dependency, laboratory test results, medical history, behavioral and/or mental health history, treatment, billing, insurance or any other such related information. I understand that this authorization is voluntary and I may refuse to sign this authorization.

The information to release shall include, but not be limited to: Personnel records, payroll records, employment applications, performance evaluations, attendance records, pay increase records, correspondence, memoranda, employee benefits, fringe benefits, profit sharing, retirement and/or pension benefits, health, dental, vision, life insurance and disability benefits records, employer/employee investment plans, stock plans, savings plans, thrift plans, 401K, deferred compensation, supplemental excess benefit plans, and any other written information of whatever nature, kind or description irrespective of date, including any records/documents that may be stored digitally and/or electronically from 20__ to 20__.

This information is to be used for purposes of review, investigation or

1 evaluation of a claim currently being made by me as the result of an accident or
2 injury that is alleged to have occurred on _____.

3 This authorization shall be in force and effect for the duration of this
4 litigation, and upon completion of this lawsuit the authorization will expire. I
5 understand that I have the right to revoke this authorization, in writing, by sending
6 written notification to YOKA & SMITH, LLP at 445 South Figueroa Street, 38th
7 Floor, Los Angeles, California, 90071, (213) 427-2300, or LEWIS BRISBOIS
8 BISGAARD & SMITH, 633 West 5th Street, Suite 4000, Los Angeles, CA
9 90071, (213) 250-1800. I understand that a revocation is effective only after the
10 provider of the information actually receives written notice of the cancellation. I
11 further understand that the authorization may only be revoked up until such time
12 as the records have been released to the requesting party.

13 I understand this authorization is voluntary. All records released under the
14 authorization may be subject to re-disclosure by the recipient and may no longer
15 be protected under HIPAA. However, under California Civil Code section 56.13,
16 further use or disclosure of this information is prohibited unless another
17 authorization is obtained or unless such use of disclosure is specifically required
18 or permitted by law.

19 A photocopy of this release shall have the same force and effect as the
20 original. These records are being requested on behalf of the individual signing
21 below. The person signing this document may receive a copy of this authorization
22 at their request

23 _____
24

25 Signature of Employee Date

26 _____

27 Print full name of Employee
28

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2
3 DATED: December 27, 2019

4 **YOKA & SMITH, LLP**

5 By: /s/ DAVIDA M. FRIEMAN

6 Walter M. Yoka
7 David T. McCann
8 R. Bryan Martin
9 Alice Chen Smith
10 Davida M. Frieman

11 **LEWIS BRISBOIS, LLP**

12 By: /s/ JEFFREY STOLTZ

13 Steven E. Meyer
14 Jeffrey B. Stoltz

15 Attorneys for Defendants,
16 Nutribullet, LLC; Capital Brands, LLC;
17 Homeland Housewares, LLC; Call To
18 Action, LLC; and Nutriliving, LLC

19 **ABIR COHEN TREYZON SALO, LLP**

20 By: /s/ AARON LAVINE

21 Boris Treyzon
22 Douglas Roehen
23 Aaron Lavine
24 Attorneys for Plaintiff

25 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED**

26 DATED: _____

27 _____
28 Dean D. Pregerson
United States District Judge